

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ROYCE CORLEY,

Plaintiff,

-against-

ORDER

16-CV-3367 (NGG) (SMG)

HARRY J. FARRELL; ANDREW
O'CONNELL; LUCIA E. PAGANO; JAMES
SLEVIN; JOHN CAPRA; ROBERT FARRELL;
LISA VELLA; ROBERT STAHL; JAMES
SHILLITTO; ANTHONY PEDAGNA; PAUL
ALBANO; JOHN DOE 1, in their individual and
official capacity as agents and representatives of
the Utility Workers Union of America (UWUA);
and its Local Union No. 1-2; affiliated with the
American Federation of Labor and Congress of
Industrial Organizations (AFL-CIO); MICHAEL
STANISICH; MARY ADAMO; LORETTA
VANACORE; CLAUDE TRAHAN; MICHAEL
T. HAGGERTY; WALTER PANCHYN;
HENRY DONG; ETWARIA S. SEENAUTH;
FRANK CARMELLO; JOHN DOE 2, in their
individual and official capacity as officers,
supervisors and management-employees of
Consolidated Edison Company of New York,
Inc.,

Defendants.

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NICHOLAS G. GARAUFIS, United States District Judge.

On June 16, 2016, Plaintiff Royce Corley filed this pro se action against his former employer and the employees of the labor union that previously represented him, pursuant to the Labor Management Relations Act ("LMRA"), the Labor Management Reporting and Disclosure

Act (“LMRDA”), the Family and Medical Leave Act (“FMLA”), and New York law. (Compl. (Dkt. 1).) By Memorandum and Order dated July 18, 2016, the court granted Plaintiff’s motion for leave to proceed in forma pauperis, but dismissed the Complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim upon which relief may be granted. (Mem. & Order (Dkt. 7).) Plaintiff was granted 30 days’ leave to amend his Complaint. (Id.) Rather than file an amended complaint, Plaintiff filed a Motion for Reconsideration pursuant to Rule 6.3 of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York. (Mot. for Recons. (Dkt. 9).)

By Memorandum and Order dated September 16, 2016, the court denied Plaintiff’s Motion for Reconsideration, and granted Plaintiff a final opportunity to submit an amended complaint that addressed the deficiencies identified in the court’s July 18, 2016, Memorandum and Order. (Mem. & Order (Dkt. 10).) The court instructed Plaintiff that should he elect to file an amended complaint, he must do so within 30 days of September 16, 2016. (Id.) Plaintiff was further instructed that should he fail to file an amended complaint within the time allowed, judgment dismissing the action would enter. More than 30 days have elapsed and Plaintiff has failed to respond to the court’s Order.¹

Accordingly, the Clerk of Court is DIRECTED to enter judgment and close this case. Plaintiff’s request for issuance of a summons and for assistance in identifying the unknown defendants is DENIED as moot. (See Ltr. (Dkt. 11).) Cf. Le Grand v. Evan, 702 F.2d 415, 417 (2d Cir. 1983) (acknowledging that it is “the practice of the Eastern District to determine whether a complaint is ‘frivolous or malicious’ under 28 U.S.C. § 1915(d) before issuance of a

¹ By letter dated September 23, 2016, Plaintiff informed the court that he will not file an amended complaint. (Ltr. (Dkt. 11).)

summons”). The court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal from this order and judgment would not be taken in good faith and therefore in forma pauperis status is DENIED. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962). The Clerk of the Court is respectfully DIRECTED to mail a copy of this Order to Plaintiff.

SO ORDERED.

Dated: Brooklyn, New York
November 8, 2016

s/Nicholas G. Garaufis
NICHOLAS G. GARAUFIS
United States District Judge